

Miscellaneous Date: 04-10-06

Batch #: 1

Receipt #	Chk#	Payee Name
571	12805	Firstsearch Technology Group
572	1100	WaterClaim

Received	Deposit	Comments
Total	Total	
\$30.00 <input type="checkbox"/>	\$30.00	Inv# 195, Data Bank
\$220.00 <input type="checkbox"/>	\$220.00	Copies

Total received:

\$250.00

\$250.00

Ron-  
FYI  
-ADD

**Ron Theis**

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**From:** Ann Bleed [ableed@dnr.ne.gov]  
**Sent:** Thursday, May 25, 2006 5:06 PM  
**To:** Ron Theis  
**Subject:** Re: Waterclaim request for Excel data

I don't need to bill for my time, which was really minimal. Proceed as you think best. Ann

-----Original Message-----

**From:** "Ron Theis" <rtheis@dnr.ne.gov>  
**To:** <ableed@dnr.ne.gov>  
**Date:** Wed, 24 May 2006 17:20:37 -0500  
**Subject:** Waterclaim request for Excel data

Ann, the AG just finished their review of Waterclaim request for Excel files today. It took them quite a bit longer than anticipated to finish. We want to send to Smith asap, but want to send "final bill" with it. His deposit was for half our (amended, excluding AG time) estimate, but we spent more time retrieving material than estimated (specifically 9.5 hrs for Mike, rather than 4 = \$195), including the time it took you to retrieve material. We are not billing anything for AG time or our time re-organizing material at their request. If you want your time included in final bill, I need the count. If you don't want your time included, or any other, tell me. We hope to send disc and bill by 5-25 (tomorrow in Nebraska) if possible. We can wait, or punt if necessary, but want to give you this opportunity to respond. Hope you're having a great time. Ron

5/26/2006

DNR 007428

**Ron Theis**

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**From:** Paul Koester [pkoester@dnr.ne.gov]  
**Sent:** Wednesday, May 24, 2006 9:12 AM  
**To:** rtheis@dnr.ne.gov  
**Subject:** RE: time card

Ron,

I have spent an extra 8 hours wading through the files and organizing and documenting them for Justin. That is in addition to the number of hours I had already told you for gathering the data the first time.

--Paul

*(6 hrs reported)*

-----Original Message-----

**From:** Ron Theis [mailto:rtheis@dnr.ne.gov]  
**Sent:** Wednesday, May 24, 2006 7:56 AM  
**To:** mthompson@dnr.ne.gov; pkoester@dnr.ne.gov  
**Subject:** time card

Mike & Paul, preparatory to AG finishing review of the Excel file request from Waterclaim, please take a moment to send me your tally of time spent on the request. We would like to send the material off asap when released by the AG, but will need to send a bill for the residual cost (Waterclaim paid half the estimated cost to initiate collecting the material). Please note, for the purpose of billing, only your time collecting/sorting the material for presenting to the AG is billable to Waterclaim; any time you spent re-sorting/explaining for the AG's purposes, or at their request, is not billable to Waterclaim, so it must be separated out. We want to know how much of the latter was expended nevertheless, for documenting manpower cost/needs of DNR for responding to such requests, so it is requested even though it won't be billed. Justin thinks they may be ready to release it by tomorrow. Thanks, Ron

5/24/2006

DNR 007429

## Ron Theis

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**From:** Paul Koester [pkoester@dnr.ne.gov]  
**Sent:** Thursday, May 25, 2006 8:17 AM  
**To:** rtheis@dnr.ne.gov  
**Subject:** RE: Waterclaim

Ron, There are 154 mb of 'priveleged and confidential' data that are not being shared with Waterclaim. What was sent and what was set aside as confidential have been saved and backed up for future reference.

*Paul*

-----Original Message-----

**From:** Ron Theis [mailto:rtheis@dnr.ne.gov]  
**Sent:** Wednesday, May 24, 2006 5:25 PM  
**To:** pkoester@dnr.ne.gov  
**Subject:** Waterclaim

Paul, please save the disc you got from AG. We need it as part of our record of what was considered privileged by AG. One of the questions we may also have to answer is what proportion of all the records are considered privileged. Let me know what you have. Thanks. Ron

5/25/2006

DNR 007430

May 25, 2005

Steve Smith, Director  
Waterclaim  
P.O. Box 698  
Imperial, NE 69033

Dear Mr. Smith,

I am writing in reference to your request for public information which originated in the fall of 2005, ~~abandoned by you thereafter, and then renewed in April, 2006, for all Excel spreadsheets pertaining to the Republican River Basin created since January 1, 2005.~~ Your deposit for that material was received April 10, 2006, and noted in my April 11, 2006 letter and later emails to you. Subsequently, the material was collected by Department staff, and reviewed by Legal Counsel. It was then reviewed by staff of the Attorney General's Office, and was sent back to us May 24, 2006 with concurrence on which records may be considered privileged. The compact disc enclosed contains some of the records you requested, but not those records determined by the Department to be withheld pursuant to Neb. Rev. Stat. § 84-712.05(4).

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As the public official or employee responsible for the decision to deny your request for access to some of the records, I am also informing you that you may have an administrative or judicial right of review of our denial of copies or access to records under Neb. Rev. Stat. § 84-712.03.

As noted to you by the Assistant Attorney General, March 31, 2006, in response to your questions about the estimated costs for obtaining the records, pursuant to Neb. Rev. Stat. § 84-712 (Supp. 2004) the Department may charge a fee for public records not to exceed the actual cost, but including Department employees' time to find the records, and review them for determining their responsiveness to your request. The amended cost estimate suggested by the Attorney General then was \$339.30, part of which we received April 10 in order to begin our response. In the process of responding, however, we found the actual cost to be higher due to more Department employee time involvement than originally estimated.

The actual cost break down is as follows:

Employee time for selecting responsive documents and creating electronic copy-  
9.5 hrs. @ \$35.51/hr, and 6 hrs. @ \$23.55/hr                      Total - \$496.30

Employee time for document review by Department Counsel  
2 hrs. @ \$27.98/hr.    Total - \$55.96

Grand Total \$552.71  
Deposit Received \$220.00  
Balance Due \$332.71

Please forward the balance due within 30 days of your receipt of the records.

Sincerely,

Ron Theis, Legal Counsel

| Encl: One C.D. "Steve Smith Data Request"

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April 11, 2006

Steve Smith  
P.O. Box 698  
Imperial, NE 69033

Dear Mr. Smith,

The Nebraska Department of Natural Resources received your deposit, April 10, 2006, for all excel spreadsheets pertaining to the Republican River valley which you requested in the fall of 2005. Receipt of your deposit enables your request to be processed, and we are seeking to collect and review the records for forwarding to you as soon as possible. Neb. Rev. Stat. § 84-712(4) provides that if records cannot be provided to a requester with reasonable good faith efforts within four business days after actual receipt of the request, we must notify you to explain. Due to the current workload, personnel that are collecting the material are unable to finish until April 24<sup>th</sup>. The nature of the material must then be examined by legal staff regarding privilege, as some may pertain to existing lawsuits. The Attorney General's Office informs me they should be able to finish screening the material by April 27<sup>th</sup>. The public, unprivileged information will then be forwarded to you immediately. Thank you for your patience in the meanwhile.

Sincerely,

Ron Theis  
Legal Counsel



# DOCUMENT 24

add Thompson & Koester time to final bill  
this time?

**Ron Theis**

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**From:** Ann Diers [adiers@dnr.state.ne.us]  
**Sent:** Monday, April 10, 2006 1:46 PM  
**To:** Mike Thompson; Paul Koester; Ron Theis  
**Subject:** Check received from WaterClaim today

There was no letter or any written correspondence, so, you can proceed with fulfilling the records request that I believe I gave you copies of last week (relating to Excell spreadsheets).

Ron:  
You will need to draft a letter to Mr. Smith, indicating that we will not be able to get his records request out within the four days allowed by statute. Work with Mike and Paul (and verify with Dave Cookson that he still thinks he will need a week to review) in figuring out when the response could be provided (since that is something you will need to tell Mr. Smith in the letter).  
Thanks.

Ann

\*\*\*\*\*  
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